

Calendar No. 1098

110TH CONGRESS  
2D SESSION

**H. R. 1187**

**[Report No. 110–516]**

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IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 13), 2008

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. INOUE, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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**AN ACT**

To expand the boundaries of the Gulf of the Farallones  
National Marine Sanctuary and the Cordell Bank Na-  
tional Marine Sanctuary, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Gulf of the Farallones  
3 and Cordell Bank National Marine Sanctuaries Boundary  
4 Modification and Protection Act”.

5 **SEC. 2. FINDINGS.**

6       The Congress finds the following:

7           (1) The Gulf of the Farallones extends approxi-  
8 mately 100 miles along the coast of Marin and  
9 Sonoma counties of northern California. It includes  
10 approximately one-half of California’s nesting  
11 seabirds, rich benthic marine life on hard-rock sub-  
12 strate, prolific fisheries, and substantial concentra-  
13 tions of resident and seasonally migratory marine  
14 mammals.

15           (2) Cordell Bank is adjacent to the Gulf of the  
16 Farallones and is a submerged island with spectac-  
17 ular, unique, and nationally significant marine envi-  
18 ronments.

19           (3) These marine environments have national  
20 and international significance, exceed the biological  
21 productivity of tropical rain forests, and support  
22 high levels of biological diversity.

23           (4) These biological communities are easily sus-  
24 ceptible to damage from human activities, and must  
25 be properly conserved for themselves and to protect

1 the economic viability of their contribution to na-  
2 tional and regional economies.

3 (5) The Gulf of Farallones and Cordell Bank  
4 include some of the Nation's richest fishing grounds,  
5 supporting important commercial and recreational  
6 fisheries. These fisheries are regulated by State and  
7 Federal fishery agencies and are supported and fos-  
8 tered through protection of the waters and habitats  
9 of Gulf of the Farallones National Marine Sanctuary  
10 and Cordell Bank National Marine Sanctuary.

11 (6) The report of the Commission on Ocean  
12 Policy established by Public Law 106–256 calls for  
13 comprehensive protection for the most productive  
14 ocean environments and recommends that they be  
15 managed as ecosystems.

16 (7) New scientific discoveries by the National  
17 Marine Sanctuary Program support comprehensive  
18 protection for these marine environments by broad-  
19 ening the geographic scope of the existing Gulf of  
20 the Farallones National Marine Sanctuary and the  
21 Cordell Bank National Marine Sanctuary.

22 (8) Cordell Bank is at the nexus of an ocean  
23 upwelling system, which produces the highest bio-  
24 mass concentrations on the west coast of the United  
25 States.

1 **SEC. 3. POLICY AND PURPOSE.**

2 (a) POLICY.—It is the policy of the United States in  
3 this Act to protect and preserve living and other resources  
4 of the Gulf of the Farallones and Cordell Bank marine  
5 environments.

6 (b) PURPOSE.—The purposes of this Act are the fol-  
7 lowing:

8 (1) To extend the boundaries of the Gulf of the  
9 Farallones National Marine Sanctuary and the  
10 Cordell Bank National Marine Sanctuary to the  
11 areas described in section 5.

12 (2) To strengthen the protections that apply in  
13 the Sanctuaries.

14 (3) To educate and interpret for the public the  
15 ecological value and national importance of those  
16 marine environments.

17 (4) To manage human uses of the Sanctuaries  
18 under this Act and the National Marine Sanctuaries  
19 Act (16 U.S.C. 1431 et seq.).

20 (c) EFFECT ON FISHING ACTIVITIES.—Nothing in  
21 this Act is intended to alter any existing authorities re-  
22 garding the conduct and location of fishing activities in  
23 the Sanctuaries.

24 **SEC. 4. DEFINITIONS.**

25 In this Act:

1           ~~(1)~~ MARICULTURE.—The term “mariculture”  
 2           means the propagation or rearing of aquatic orga-  
 3           nisms in controlled or selected aquatic environments  
 4           for any commercial, recreational, or public purpose.

5           ~~(2)~~ (1) CORDELL BANK NMS.—The term  
 6           “Cordell Bank NMS” means the Cordell Bank Na-  
 7           tional Marine Sanctuary.

8           ~~(3)~~ (2) FARALLONES NMS.—The term  
 9           “Farallones NMS” means the Gulf of the Farallones  
 10          National Marine Sanctuary.

11          ~~(4)~~ (3) SANCTUARIES.—The term “Sanc-  
 12          tuaries” means the Gulf of the Farallones National  
 13          Marine Sanctuary and the Cordell Bank National  
 14          Marine Sanctuary, as expanded by section 5.

15          ~~(5)~~ (4) SECRETARY.—The term “Secretary”  
 16          means the Secretary of Commerce.

17 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-**  
 18 **JUSTMENTS.**

19          (a) GULF OF THE FARALLONES.—

20               (1) BOUNDARY ADJUSTMENT.—The areas de-  
 21               scribed in paragraph (2) are added to the existing  
 22               Gulf of the Farallones National Marine Sanctuary  
 23               described in part 922.80 of title 15, Code of Federal  
 24               Regulations.

25               (2) AREAS INCLUDED.—

1 (A) IN GENERAL.—The areas referred to  
2 in paragraph (1) consist of the following:

3 (i) All submerged lands and waters,  
4 including living marine and other resources  
5 within and on those lands and waters,  
6 from the mean high water line to the  
7 boundary described in subparagraph (B).

8 (ii) The submerged lands and waters,  
9 including living marine and other resources  
10 within those waters, within the approxi-  
11 mately two-square-nautical-mile portion of  
12 the Cordell Bank NMS (as in effect imme-  
13 diately before the enactment of this Act)  
14 that is located south of the area that is  
15 added to Cordell Bank NMS by subsection  
16 (b)(2), which are transferred to the  
17 Farallones NMS from the Cordell Bank  
18 NMS.

19 (B) BOUNDARY DESCRIBED.—The bound-  
20 ary referred to in subparagraph (A)(i) com-  
21 mences from the mean high water line  
22 (MHWL) at 39.00000 degrees north in a west-  
23 ward direction approximately 29 nautical miles  
24 (nm) to 39.00000 north, 124.33333 west. The  
25 boundary then extends in a southeasterly direc-

1           tion to 38.30000 degrees north, 124.00000 de-  
 2           grees west, approximately 44 nm westward of  
 3           Bodega Head. The boundary then extends east-  
 4           ward to the most northeastern corner of the ex-  
 5           panded Cordell Bank NMS at 38.30000 north,  
 6           123.20000 degrees west, approximately 6 nm  
 7           miles westward of Bodega Head. The boundary  
 8           then extends in a southeasterly direction to  
 9           ~~38.26500~~ 38.26390 degrees north, ~~123.18166~~  
 10          123.18138 degrees west at the northwestern  
 11          most point of the current Gulf of the Farallones  
 12          Boundary. The boundary then follows the cur-  
 13          rent northern Gulf of the Farallones NMS  
 14          boundary in a northeasterly direction to the  
 15          MHWL near Bodega Head. The boundary then  
 16          follows the MHWL in a northeasterly direction  
 17          to the commencement point at the intersection  
 18          of the MHWL and 39.00000 north. Coordinates  
 19          listed in this subparagraph are based on the  
 20          North American Datum 1983 and the geo-  
 21          graphic projection.

22          (b) CORDELL BANK.—

23               (1) BOUNDARY ADJUSTMENT.—The area de-  
 24          scribed in paragraph (2) is added to the existing  
 25          Cordell Bank National Marine Sanctuary described

1 in part 922.80 of title 15, Code of Federal Regula-  
2 tions.

3 (2) AREA INCLUDED.—

4 (A) IN GENERAL.—The area referred to in  
5 paragraph (1) consists of all submerged lands  
6 and waters, including living marine and other  
7 resources within those waters, within the  
8 boundary described in subparagraph (B).

9 (B) BOUNDARY.—The boundary referred  
10 to in subparagraph (A) commences at the most  
11 northeastern point of the current Cordell Bank  
12 NMS boundary at ~~38.26500~~ 38.26390 degrees  
13 north, ~~123.18166~~ 123.18138 degrees west and  
14 extends northwestward to 38.30000 degrees  
15 north, 123.20000 degrees west, approximately 6  
16 nautical miles (nm) west of Bodega Head. The  
17 boundary then extends westward to 38.30000  
18 degrees north, 124.00000 degrees west, ap-  
19 proximately 44 nautical miles west of Bodega  
20 Head. The boundary then turns southeastward  
21 and continues approximately 34 nautical miles  
22 to 37.76687 degrees north, 123.75142 degrees  
23 west, and then approximately 15 nm eastward  
24 to 37.76687 north, 123.42694 west at an inter-  
25 section with the current Cordell Bank NMS



boundary. The boundary then follows the current Cordell Bank NMS, which is coterminous with the current Gulf of the Farallones boundary, in a northeasterly and the northwesterly direction to its commencement point at ~~38.26500~~ *38.26390* degrees north, ~~123.18166~~ *123.18138* degrees west. Coordinates listed in this subparagraph are based on NAD83 Datum and the geographic projection.

(c) INCLUSION IN THE SYSTEM.—The areas included in the Sanctuaries under subsections (a) and (b) shall be managed as part of the National Marine Sanctuary System, established by section 301(c) of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with that Act.

(d) UPDATED NOAA CHARTS.—The Secretary shall—

(1) produce updated National Oceanic and Atmospheric Administration nautical charts for the areas in which the Sanctuaries are located; and

(2) include on those nautical charts the boundaries of the Sanctuaries, as revised by this Act.

(e) BOUNDARY ADJUSTMENTS.—In producing revised nautical charts as directed by subsection (d) and in describing the boundaries in regulations issued by the Sec-

1 retary, the Secretary may make technical modifications to  
2 the boundaries described in this section for clarity and  
3 ease of identification, as appropriate.

4 **SEC. 6. PROHIBITION OF OIL AND GAS LEASING AND PER-**  
5 **MITTING.**

6 No lease or permit may be issued that authorizes ex-  
7 ploration, development, production, or transporting by  
8 pipeline of minerals or hydrocarbons within the Sanc-  
9 tuaries.

10 **SEC. 7. MANAGEMENT PLANS AND REGULATIONS.**

11 (a) INTERIM PLAN.—The Secretary shall complete an  
12 interim supplemental management plan for the Sanc-  
13 tuaries by not later than 24 months after the date of en-  
14 actment of this Act, that focuses on management in the  
15 areas added to the Sanctuaries under this Act. The Sec-  
16 retary shall ensure that the supplemental plan does not  
17 weaken existing resource protections.

18 (b) REVISED PLANS.—The Secretary shall issue a re-  
19 vised comprehensive management plan for the Sanctuaries  
20 during the first management review initiated after the  
21 date of the enactment of this Act under section 304(e)  
22 of the National Marine Sanctuaries Act (16 U.S.C.  
23 1434(e)) for the Sanctuaries, and issue such final regula-  
24 tions as may be necessary.

1       (c) APPLICATION OF EXISTING REGULATIONS.—The  
2 regulations for the Gulf of the Farallones National Marine  
3 Sanctuary (15 C.F.R. 922, subpart H) and the Cordell  
4 Bank National Marine Sanctuary (15 C.F.R. 922, subpart  
5 K), including any changes made as a result of a joint man-  
6 agement plan review for the Sanctuaries conducted pursu-  
7 ant to section 304(e) of the National Marine Sanctuaries  
8 Act (16 U.S.C. 1434(e)), shall apply to the areas added  
9 to each Sanctuary, respectively, under section 5 until the  
10 Secretary modifies such regulations in accordance with  
11 subsection (d) of this section.

12       (d) REVISED REGULATIONS.—

13           (1) IN GENERAL.—The Secretary shall carry  
14 out an assessment of necessary revisions to the regu-  
15 lations for the Sanctuaries in a manner that ensures  
16 the protection of the resources of the Sanctuaries  
17 consistent with the purposes and policies of the Na-  
18 tional Marine Sanctuaries Act and the goals and ob-  
19 jectives for the new areas added to each sanctuary  
20 under section 5 of this Act. The assessment and any  
21 corresponding regulatory changes shall be complete  
22 within 24 months of the date of enactment of this  
23 Act.

24           (2) REGULATION OF SPECIFIC ACTIVITIES.—In  
25 revising the regulations for the Sanctuaries pursuant

1 to this subsection, the Secretary shall consider ap-  
 2 propriate regulations for the following activities:

3 (A) The deposit or release of introduced  
 4 species.

5 (B) The alteration of stream and river  
 6 drainage into the Sanctuaries.

7 ~~(C) Mariculture operations in the Sanc-~~  
 8 ~~tuaries.~~

9 (3) CONSIDERATIONS.—In revising the regula-  
 10 tions for the Sanctuaries pursuant to this sub-  
 11 section, the Secretary shall consider exempting from  
 12 further regulation under the National Marine Sanc-  
 13 tuaries Act and this Act discharges that are per-  
 14 mitted under a National Pollution Discharge Elimi-  
 15 nation System permit in effect on the date of enact-  
 16 ment of this Act, or under a new or renewed Na-  
 17 tional Pollution Discharge Elimination System per-  
 18 mit that does not increase pollution in the Sanc-  
 19 tuaries and that originates—

20 (A) in the Russian River Watershed out-  
 21 side the boundaries of the Gulf of the  
 22 Farallones National Marine Sanctuary; or

23 (B) from the Bodega Marine Laboratory.

24 (e) CONTENTS OF PLANS.—Revisions to each com-  
 25 prehensive management plan under this section shall, in

1 addition to matters required under section 304(a)(2) of  
2 the Marine Protection, Research, and Sanctuaries Act of  
3 1972 (16 U.S.C. 1434(A)(2))—

4 (1) facilitate all appropriate public and private  
5 uses of the national marine sanctuary to which each  
6 respective plan applies consistent with the primary  
7 objective of sanctuary resource protection;

8 (2) establish temporal and geographical zoning  
9 if necessary to ensure protection of sanctuary re-  
10 sources;

11 (3) identify priority needs for research that  
12 will—

13 (A) improve management of the Sanc-  
14 tuaries;

15 (B) diminish threats to the health of the  
16 ecosystems in the Sanctuaries; or

17 (C) fulfill both of subparagraphs (A) and  
18 (B);

19 (4) establish a long-term ecological monitoring  
20 program and database, including the development  
21 and implementation of a resource information sys-  
22 tem to disseminate information on the Sanctuaries'  
23 ecosystem, history, culture, and management;

24 (5) identify alternative sources of funding need-  
25 ed to fully implement the plan's provisions and sup-

1       plement appropriations under section 313 of the Ma-  
2       rine Protection, Research, and Sanctuaries Act of  
3       1972 (16 U.S.C. 1444);

4           (6) ensure coordination and cooperation be-  
5       tween sanctuary superintendents and other Federal,  
6       State, and local authorities with jurisdiction over  
7       areas within or adjacent to the Sanctuaries to deal  
8       with issues affecting the Sanctuaries, including sur-  
9       face water run-off, stream and river drainages, and  
10      navigation;

11          (7) in the case of revisions to the plan for the  
12      Farallones NMS, promote cooperation with farmers  
13      and ranchers operating in the watersheds adjacent  
14      to the Farallones NMS and establish voluntary best  
15      management practices programs;

16          (8) promote cooperative and educational pro-  
17      grams with fishing vessel operators and crews oper-  
18      ating in the waters of the Sanctuaries, and, when-  
19      ever possible, include individuals who engage in fish-  
20      ing and their vessels in cooperative research, assess-  
21      ment, and monitoring programs and educational  
22      programs to promote sustainable fisheries, conserva-  
23      tion of resources, and navigational safety; and

24          (9) promote education and public awareness,  
25      among users of the Sanctuaries, about the need for

1 marine resource conservation and safe navigation  
2 and marine transportation.

3 (f) PUBLIC PARTICIPATION.—The Secretary shall  
4 provide for participation by the general public in the revi-  
5 sion of the comprehensive management plans and relevant  
6 regulations under this section.

7 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to the Sec-  
9 retary—

10 (1) ~~\$3,000,000 to carry out this Act for each~~  
11 ~~of fiscal years 2009 through 2013, other than for~~  
12 ~~construction and acquisition projects; and~~

13 (2) ~~\$3,500,000 for fiscal year 2009 and such~~  
14 ~~sums as may be necessary for each of fiscal years~~  
15 ~~2010 through 2013 for construction and acquisition~~  
16 ~~projects related to the Sanctuaries.~~

Calendar No. 1098

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 1187**

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## AN ACT

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes.

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OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported with amendments